

## Message Text

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PAGE 01 STATE 307339  
ORIGIN ARA-10

INFO OCT-01 ISO-00 DHA-02 IO-13 H-01 SP-02 CIAE-00 INR-07  
NSAE-00 /036 R

DRAFTED BY ARA:GLISTER  
APPROVED BY ARA:GLISTER  
ARA/CAR:FTUMMINIA

----- 075200 /11

R 202137Z DEC 76  
FM SECSTATE WASHDC  
TO AMEMBASSY PORT AU PRINCE

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E.O. 11652: N/A

TAGS: SHUM, HA

SUBJECT: HUMAN RIGHTS REPORTS

REF: STATE 306915

1. REFTEL SET FORTH TEXT OF DECLASSIFIED VERSION OF THE  
CONFIDENTIAL HUMAN RIGHTS REPORT ON HAITI PREPARED AT  
REQUEST OF CONGRESSMAN FRASER. LATTER ALREADY SENT TO  
FRASER. UNCLASSIFIED VERSION EXPECTED TO BE GIVEN HIM  
THIS WEEK.

2. AS EMBASSY IS AWARE, UNCLASSIFIED HUMAN RIGHTS REPORTS  
ON INDIVIDUAL COUNTRIES WILL ACCOMPANY THE CONGRESSIONAL  
PRESENTATION DOCUMENT FOR SECURITY ASSISTANCE WHEN IT  
GOES TO THE HILL SOME TIME EARLY NEXT YEAR. THE EXACT  
DATE WILL BE DETERMINED BY THE NEW ADMINISTRATION. PRESENT  
SCHEDULE CALLS FOR PRINTING OF REPORTS ON JANUARY 15.

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3. TEXT OF AGREED ARA PAPER ON HAITI FOR CONGRESSIONAL  
PRESENTATION DOCUMENT IS TRANSMITTED BELOW FOR EMBASSY  
INFORMATION AND ANY COMMENT.

4. QUOTE: I. POLITICAL SITUATION. HAITI, THE POOREST  
COUNTRY IN THE WESTERN HEMISPHERE, HAS NOT HAD A DEMOCRATIC

TRADITION. SINCE IT BECAME INDEPENDENT IN 1804, THE COUNTRY HAS HAD AN AUTHORITARIAN HISTORY, PUNCTUATED BY ATTEMPTS BY THOSE OUT OF POWER TO REMOVE THE REGIME IN POWER BY FORCE. IN THE 1960'S THE REGIME OF THE LATE FRANCOIS DUVALIER AND A SERIES OF COUP ATTEMPTS MOUNTED FROM ABROAD LED TO AN ATMOSPHERE OF SUSPICION AND INSECURITY. ALL OPPOSITION TO THE REGIME WAS SUPPRESSED.

SINCE 1971, THERE HAS BEEN A GRADUAL IMPROVEMENT OF THE POLITICAL ATMOSPHERE. PRESIDENT JEAN-CLAUDE DUVALIER HAS DECLARED POLICIES OF DOMESTIC DETENTE AND NATIONAL RECONCILIATION, AND POLITICAL REPRESSION HAS EASED. OVER 500 PRISONERS, INCLUDING A NUMBER OF POLITICAL PRISONERS, HAVE BEEN RELEASED IN SIX SEPARATE AMNESTIES. THE PRESIDENT HAS PUBLICLY ASSURED HAITIAN EXILES THEY COULD RETURN WITHOUT REPRISALS, AND HUNDREDS HAVE DONE SO.

II. LEGAL SITUATION. THE HAITIAN CONSTITUTION PROVIDES GUARANTEES FOR A BROAD RANGE OF UNIVERSALLY-RECOGNIZED HUMAN RIGHTS, AMONG THEM LIFE, LIBERTY, PRIVACY, FREEDOM OF SPEECH, WARRANTS FOR ARREST AND SEARCH, AND TRIAL BY JURY. THESE RIGHTS HAVE RARELY BEEN OBSERVED. UNDER THE HAITIAN CONSTITUTION, NEARLY ALL EFFECTIVE POLITICAL AUTHORITY IS VESTED IN THE PRESIDENT, WHO HAS TENURE FOR LIFE. MOST INDIVIDUAL RIGHTS ARE FORMALLY SUSPENDED UNDER A STATE OF SIEGE IN EFFECT SINCE 1958. HOWEVER, HAITI'S CRIMINAL COURTS CONVENED THIS SPRING IN REGULAR SESSION FOR THE FIRST TIME IN 16 YEARS. IN SEPTEMBER 1976, PRESIDENT DUVALIER INSTRUCTED THE MINISTRY OF JUSTICE TO LIMITED OFFICIAL USE

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BRING ALL PERSONS ARRESTED PROMPTLY BEFORE THE CRIMINAL COURTS.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.

A. INTEGRITY OF THE PERSON.

ARTICLE 3: UNDER THE FRANCOIS DUVALIER REGIME IN HAITI, THERE WAS WIDESPREAD DANGER TO LIFE AND PERSONAL SECURITY, INCLUDING THE RISK OF PROLONGED INCARCERATION DUE TO FALSE DENUNCIATIONS. DETENTION FOR EXTENDED PERIODS WITHOUT REGARD TO DUE PROCESS STILL OCCURS, BUT UNDER THE PRESIDENCY OF JEAN-CLAUDE DUVALIER IT NOW APPEARS LIMITED LARGELY TO THOSE CONSIDERED BY THE GOVERNMENT TO BE SERIOUS THREATS TO ITS SECURITY.

ARTICLE 5: IT IS DIFFICULT TO DETERMINE THE DEGREE OF HAITI'S COMPLIANCE WITH THIS ARTICLE. CONDITIONS IN

HAITIAN PRISONS ARE GENERALLY POOR, BUT WE HAVE BEEN UN-  
ABLE TO CONFIRM IN RECENT YEARS ALLEGATIONS OF ARBITRARY

EXECUTIONS AND TORTURE. SEVERAL PRISONERS RELEASED FROM  
HAITIAN PRISONS IN THE PAST FEW YEARS HAVE REPORTED AN  
IMPROVEMENT IN PRISON CONDITIONS SINCE THE 1960'S.

ARTICLE 8: THE HAITIAN CONSTITUTION PROVIDES FOR THE  
RIGHT OF PETITION FOR A REDRESS OF GRIEVANCES, BUT THERE  
HAS BEEN NO EFFECTIVE RELIEF FROM THE COURTS IN CASES IN-  
VOLVING CHARGES OF SUBVERSION.

ARTICLE 9: PERSONS CONSIDERED A THREAT TO SECURITY BY  
THE GOVERNMENT ARE SUBJECT TO ARREST AND DETENTION WITHOUT  
CIVIL TRIAL.

PRESIDENT JEAN-CLAUDE DUVALIER HAS GRANTED AMNESTIES SIX  
TIMES SINCE ASSUMING POWER, RELEASING A TOTAL OF ABOUT  
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500 PRISONERS -- MOST OF THEM ARRESTED BEFORE HE CAME TO  
POWER. FOLLOWING A PRESIDENTIAL INSPECTION VISIT TO THE  
NATIONAL PENITENTIARY IN SEPTEMBER 1976, THE HAITIAN PRESS  
PUBLISHED THE NAMES OF 261 PRISONERS ORDERED RELEASED BY  
THE PRESIDENT. NO CHARGES WILL BE BROUGHT AGAINST THOSE  
RELEASED, AND THE MINISTRY OF JUSTICE HAS BEEN ORDERED TO  
PRESENT THE CASES OF ALL REMAINING PERSONS HELD FOR MIS-  
DEMEANORS AND CRIMES AT THE NEXT CRIMINAL ASSIZES.

ARTICLE 10: A FAIR HEARING IS AVAILABLE IN MOST ORDINARY  
TRIALS IN THE CAPITAL. FAIR HEARINGS ARE LESS LIKELY IN  
THE COUNTRYSIDE, WHERE FEW TRIALS TAKE PLACE, OR FOR  
PERSONS DETAINED ON SECURITY GROUNDS AND TRIED IN THE  
MILITARY COURTS.

ARTICLE 11: CIVILIAN COURTS APPEAR TO HONOR THIS  
ARTICLE'S REQUIREMENTS FOR A FAIR TRIAL AND COUNSEL. IN  
1975 THE CRIMINAL COURTS, SUSPENDED UNDER THE PREVIOUS  
REGIME, WERE RESUMED AS AN ESTABLISHED ELEMENT IN THE  
JUDICIAL CALENDAR, AND THE FIRST FORMAL CRIMINAL TRIAL IN  
YEARS WAS HELD. IN 1976 THE COURTS GENERATED CONSIDERABLE  
PUBLIC INTEREST AND RESULTED IN SEVERAL WIDELY PUBLICIZED  
ACQUITTALS. MILITARY COURTS ARE CONDUCTED IN SECRET AND  
DO NOT APPEAR TO MEET THE REQUIREMENTS OF THIS ARTICLE.

B. OTHER IMPORTANT FREEDOMS.

HAITIANS CAN GENERALLY MOVE FREELY WITHIN THE COUNTRY.  
HAITIANS ABROAD FOR AN EXTENDED PERIOD REQUIRE A RE-  
ENTRY VISA TO RETURN. DOCUMENTS ARE REFUSED PERSONS CON-

SIDERED SUBVERSIVE OR AGAINST WHOM CHARGES ARE PENDING,  
BUT THESE APPEAR TO BE A SMALL MINORITY OF THE TOTAL  
NUMBER OF APPLICANTS. ACCORDING TO THE AIRLINES SERVING  
HAITI, HUNDREDS OF HAITIANS DEPART AND ENTER THE COUNTRY

EVERY WEEK.

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IN 1973 THE HAITIAN GOVERNMENT FORMALLY ADHERED TO THREE  
LATIN AMERICAN POLITICAL ASYLUM CONVENTIONS. IT HAS  
RESPECTED THESE CONVENTIONS, WHICH ALLOW FOR ASYLUM IN  
THE EMBASSIES OF THE CONTRACTING COUNTRIES.

CATHOLICISM IS THE STATE RELIGION IN HAITI, BUT OTHER  
RELIGIOUS GROUPS EXIST FREELY. COMMUNISM AND ANARCHISM  
ARE OUTLAWED.

THERE ARE LIMITATIONS ON THE PUBLIC EXPRESSION OF  
OPINIONS. THE PRESS EXERCISES SELF-CENSORSHIP, ALTHOUGH  
IT IS GRADUALLY ACQUIRING A GREATER MARGIN FOR CON-  
STRUCTIVE CRITICISM OF THE GOVERNMENT'S ADMINISTRATIVE  
SHORTCOMINGS.

IN 1975 A MAJOR CRIMINAL TRIAL WAS FREELY DEBATED IN THE  
PRESS. A PERIODICAL DENOUNCED A MILITIA UNIT FOR ALLEGED  
GROSS HUMAN RIGHTS VIOLATIONS. AT THE SAME TIME, THE  
INTER-AMERICAN PRESS ASSOCIATION LISTS HAITI AMONG THE  
COUNTRIES OF THE HEMISPHERE NOT ENJOYING FREEDOM OF THE  
PRESS.

THE EXERCISE OF THE RIGHT OF ASSEMBLY IS RESTRICTED.  
POLITICAL GATHERINGS, HOWEVER PEACEFUL, ARE NOT PERMITTED.

IV. OTHER HUMAN RIGHTS REPORTING. THE INTER-AMERICAN  
HUMAN RIGHTS COMMISSION'S "ANNUAL REPORT FOR 1975" DIS-  
CUSSES COMMUNICATIONS WITH THE GOVERNMENT OF HAITI ARIS-  
ING FROM A 1974 REPORT OF VARIOUS HUMAN RIGHTS VIOLATIONS  
INCLUDING THE SUMMARY EXECUTION OF OPPOSITION POLITICIANS  
AND TORTURE. IT DISCUSSES IN PARTICULAR THE COMMISSION'S  
INQUIRIES CONCERNING TWO INDIVIDUALS ALLEGED TO BE UNDER  
DETENTION. THE RESPONSE OF THE HAITIAN GOVERNMENT IN ONE  
CASE WAS THAT THERE WAS NO RECORD OF THE INDIVIDUAL'S  
ARREST. IN THE OTHER CASE, THE HAITIAN GOVERNMENT FAILED

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TO RESPOND.

AMNESTY INTERNATIONAL'S "REPORT 1975-76" STATES THAT  
ARBITRARY EXECUTIONS, STARVATION, APPALLING HYGENIC  
CONDITIONS, DISEASE AND TORTURE ACCOUNT FOR ONE OF THE  
HIGHEST MORTALITY RATES AMONG PRISONERS IN ANY COUNTRY.  
NO SPECIFIC CASES ARE CITED. THE REPORT ALSO STATES THAT  
THE ORGANIZATION HAS 255 NAMES OF POLITICAL PRISONERS.

FREEDOM HOUSE LISTS HAITI AS "NOT FREE." END QUOTE.  
KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** HUMAN RIGHTS, REPORTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 20 DEC 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** powellba  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976STATE307339  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** GLISTER  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760467-0936  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19761227/aaaaaxfo.tel  
**Line Count:** 234  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN ARA  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 5  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 76 STATE 306915  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** powellba  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 20 JUL 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <20 JUL 2004 by coburnhl>; APPROVED <28 OCT 2004 by powellba>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** HUMAN RIGHTS REPORTS  
**TAGS:** SHUM, HA  
**To:** PORT AU PRINCE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006